

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BILLY TYLER,

Plaintiff,

vs.

RON RIETHMUELLER, et al.,

Defendants.

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4:07cv3047

MEMORANDUM AND ORDER

This matter is before the court on filing no. 2, the Application to Proceed in Forma Pauperis ("IFP") filed by the plaintiff, Billy Tyler. The Application to Proceed IFP is denied. When three civil cases filed by a prisoner have been dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted, the "three strikes" provision of the Prison Litigation Reform Act ("PLRA") provides that the prisoner may not bring a new civil action or appeal without paying the full filing fee at the time of filing, i.e., no installments. The only exception to this rule is if the prisoner is in "imminent danger of serious physical injury." 28 U.S.C. § 1915(g). As more than three of the plaintiff's cases have been dismissed as frivolous, malicious, or for failure to state a claim on which relief may be granted, and as the exception for imminent danger does not apply to this case, the plaintiff is not eligible to proceed IFP by virtue of 28 U.S.C. § 1915(g).

THEREFORE, IT IS ORDERED:

1. That filing no. 2, the plaintiff's Application to Proceed IFP, is denied; and
2. That the plaintiff shall pay the full \$350 filing fee to the Clerk of Court by March 23, 2007, or this case will be subject, without further notice, to dismissal without prejudice.

February 26, 2007.

BY THE COURT:

s/ Richard G. Kopf
United States District Judge